

Representative Gage Froerer proposes the following substitute bill:

JOINT RESOLUTION ON RECALL ELECTIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to allow the removal of specified officers by recall election.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ make the Governor, State Auditor, State Treasurer, Attorney General, Senator, and Representative subject to removal from office by a recall election, as provided in statute.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2015 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VII, SECTION 11

ENACTS:

ARTICLE VI, SECTION 34

ARTICLE VII, SECTION 25

1st Sub. H.J.R. 4



26 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
27 *of the two houses voting in favor thereof:*

28 Section 1. It is proposed to enact Utah Constitution Article VI, Section 34, to read:

29 **Article VI, Section 34. [Removal of legislator by recall election.]**

30 A senator or representative is subject to removal from office by a recall election, as
31 provided by statute.

32 Section 2. It is proposed to amend Utah Constitution, Article VII, Section 11, to read:

33 **Article VII, Section 11. [Vacancy in office of Governor -- Determination of**
34 **disability.]**

35 (1) A vacancy in the office of Governor occurs when:

36 (a) the Governor dies, resigns, is removed from office following impeachment or recall
37 election, ceases to reside within the state, or is determined, as provided in Subsection (6), to
38 have a disability that renders the Governor unable to discharge the duties of office for the
39 remainder of the Governor's term of office; or

40 (b) the Governor-elect fails to take office because of the Governor-elect's death, failure
41 to qualify for office, or disability, determined as provided in Subsection (6), that renders the
42 Governor-elect unable to discharge the duties of office for the Governor-elect's full term of
43 office.

44 (2) If a vacancy in the office of Governor occurs, the Lieutenant Governor shall
45 become Governor, to serve:

46 (a) until the first Monday in January of the year following the next regular general
47 election after the vacancy occurs, if the vacancy occurs during the first year of the term of
48 office; or

49 (b) for the remainder of the unexpired term, if the vacancy occurs after the first year of
50 the term of office.

51 (3) (a) In the event of simultaneous vacancies in the offices of Governor and
52 Lieutenant Governor, the President of the Senate shall become Governor, to serve:

53 (i) until the first Monday in January of the year following the next regular general
54 election after the vacancy occurs, if the vacancy occurs during the first year of the term of
55 office; or

56 (ii) for the remainder of the unexpired term, if the vacancy occurs after the first year of

57 the term of office.

58 (b) In the event of simultaneous vacancies in the offices of Governor, Lieutenant
59 Governor, and President of the Senate, the Speaker of the House of Representatives shall
60 become Governor, to serve:

61 (i) until the first Monday in January of the year following the next regular general
62 election after the vacancy occurs, if the vacancy occurs during the first year of the term of
63 office; or

64 (ii) for the remainder of the unexpired term, if the vacancy occurs after the first year of
65 the term of office.

66 (4) If a vacancy in the office of Governor occurs during the first year of the term of
67 office, an election shall be held at the next regular general election after the vacancy occurs to
68 elect a Governor and Lieutenant Governor, as provided in Article VII, Section 2, to serve the
69 remainder of the unexpired term.

70 (5) (a) If the Governor is temporarily unable to discharge the duties of the office
71 because of the Governor's temporary disability, as determined under Subsection (6), or if the
72 Governor-elect is temporarily unable to assume the office of Governor because of the
73 Governor-elect's temporary disability, as determined under Subsection (6), the powers and
74 duties of the Governor shall be discharged by the Lieutenant Governor who, in addition to
75 discharging the duties of the office of Lieutenant Governor, shall, without additional
76 compensation, act as Governor until the disability ceases.

77 (b) (i) If, during a temporary disability of the Governor or Governor-elect, as
78 determined under Subsection (6), a vacancy in the office of Lieutenant Governor occurs or the
79 Lieutenant Governor is temporarily unable to discharge the duties of the office of Governor
80 because of the Lieutenant Governor's temporary disability, as determined under Subsection (6),
81 the powers and duties of the Governor shall be discharged by the President of the Senate who
82 shall act as Governor until the Governor or Governor-elect's disability ceases or, in the case of
83 the Lieutenant Governor's temporary disability, the Lieutenant Governor's disability ceases,
84 whichever occurs first.

85 (ii) If, during a temporary disability of the Governor or Governor-elect, as determined
86 under Subsection (6), neither the Lieutenant Governor nor the President of the Senate is able to
87 discharge the duties of the office of Governor because of a vacancy in the office of Lieutenant

88 Governor or President of the Senate, or both, or because of a temporary disability of either or
89 both officers, as determined under Subsection (6), or a combination of vacancy and temporary
90 disability, the powers and duties of the Governor shall be discharged by the Speaker of the
91 House of Representatives who shall act as Governor until the Governor's disability ceases or
92 until the vacancy, if applicable, in the office of President of the Senate is filled or the
93 temporary disability, if applicable, of the Lieutenant Governor or President of the Senate
94 ceases, whichever occurs first.

95 (c) (i) During the time that the President of the Senate acts as Governor under this
96 Subsection (5), the President may not exercise the powers and duties of President of the Senate
97 or Senator. The powers and duties of President of the Senate may be exercised during that time
98 by an acting President, chosen by the Senate.

99 (ii) During the time that the Speaker of the House of Representatives acts as Governor
100 under this Subsection (5), the Speaker may not exercise the powers and duties of Speaker of the
101 House of Representatives or Representative. The powers and duties of Speaker of the House of
102 Representatives may be exercised during that time by an acting Speaker, chosen by the House
103 of Representatives.

104 (d) When acting as Governor under this Subsection (5), the President of the Senate or
105 Speaker of the House of Representatives, as the case may be, shall be entitled to receive the
106 salary and emoluments of the office of Governor.

107 (6) (a) A disability of the Governor, Governor-elect, or person acting as Governor shall
108 be determined by:

109 (i) the written declaration of the Governor, Governor-elect, or person acting as
110 Governor, transmitted to the Supreme Court, stating an inability to discharge the powers and
111 duties of the office; or

112 (ii) a majority of the Supreme Court upon the joint request of the President or, if
113 applicable, acting President of the Senate and the Speaker or, if applicable, acting Speaker of
114 the House of Representatives.

115 (b) The Governor or person acting as Governor shall resume or, in the case of a
116 Governor-elect, shall assume the powers and duties of the office following a temporary
117 disability upon the written declaration of the Governor, Governor-elect, or person acting as
118 Governor, transmitted to the Supreme Court, that no disability exists, unless the Supreme

119 Court, upon the joint request of the President or, if applicable, acting President of the Senate
120 and the Speaker or, if applicable, acting Speaker of the House of Representatives, or upon its
121 own initiative, determines that the temporary disability continues and that the Governor,
122 Governor-elect, or person acting as Governor is unable to discharge the powers and duties of
123 the office.

124 (c) Each determination of a disability under Subsection (6)(a) shall be final and
125 conclusive.

126 (7) The Supreme Court has exclusive jurisdiction to determine all questions arising
127 under this section.

128 Section 3. It is proposed to enact Utah Constitution Article VII, Section 25, to read:

129 **Article VII, Section 25. [Removal of officers by recall election.]**

130 The Governor, State Auditor, State Treasurer, and Attorney General are subject to
131 removal from office by a recall election, as provided by statute.

132 **Section 4. Submittal to voters.**

133 The lieutenant governor is directed to submit this proposed amendment to the voters of
134 the state at the next regular general election in the manner provided by law.

135 **Section 5. Effective date.**

136 If the amendment proposed by this joint resolution is approved by a majority of those
137 voting on it at the next regular general election, the amendment shall take effect on January 1,
138 2015.